

1624

AMENDMENT TRANSMITTAL LETTER (Large Entity)

Applicant(s): Juan C. Colberg, et al.

Docket No.

PC10856A (15854)

Serial No.
10/006,579Filing Date
December 4, 2001Examiner
Mark L. BerchGroup Art Unit
1624

Invention: PROCESS AND ESTER DERIVATIVES USEFUL FOR PREPARATION OF CEPHALOSPORINS



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Transmitted herewith is an amendment in the above-identified application.

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The fee has been calculated and is transmitted as shown below.

CLAIMS AS AMENDED

	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	39 -	39 =	0	x \$18.00	\$0.00
INDEP. CLAIMS	6 -	6 =	0	x \$84.00	\$0.00
Multiple Dependent Claims (check if applicable)					\$0.00
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Signature

Dated: September 13, 2002

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PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Juan C. Colberg, et al.

Examiner: Mark L. Berch

Serial No: 10/006,579

Art Unit: 1624

Filed: December 4, 2001

Docket: PC10856A (15854)

For: PROCESS AND ESTER
DERIVATIVES USEFUL FOR
PREPARATION OF CEPHALOSPORINS

Dated: September 13, 2002

Assistant Commissioner for Patents
United States Patent and Trademark Office
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

Sir:

Claims 1-39 pend in the above application.

By Official Action of August 14, 2002, the following restriction requirement has been imposed.

I. Claims 1-33 drawn to cephalosporins and synthesis thereof, classified in Class 540, subclass 215;

II. Claims 34-35 drawn to azetidinone ketones, classified in Class 540, subclass 360.

III. Claims 36-39, drawn to thiazolines, classified in Class 540, subclass 353.

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

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Dated: September 13, 2002

Mishelle Mustafa

Applicants hereby provisionally elect Group I, Claims 1-33, for prosecution.

Applicants hereby reserve the right to file divisional applications to non-elected subject matter as warranted.

The present election is made with traverse. Reconsideration of same is requested.

The Official Action invokes 35 U.S.C. §121 as legal basis for the present requirement. This statute expressly and unambiguously ordains that restrictions may be considered only if the subject matter claimed is "independent and distinct". Thus to trigger the statute -- which is discretionary in any event-- one must satisfy two conditions precedent: independence and distinctness.

In the present case, the Official Action alleges distinctness only. No averments whatever are made in regard to supposed independence. The restriction is thus improperly grounded in the first instance and withdrawal is requested.

Moreover, the Official Action implies that restrictive examination is in order because the groupings are separately classified. Applicants point out that all three groups share Class 540, as identified by the Official Action itself. Separate examination beyond this class is not established. Furthermore, classifications are not a basis for restriction: the statute does not mention them; and they are arbitrary at best, subject to change and revision.

Given the foregoing, applicants respectfully request withdrawal of the restriction as examination of the whole will not be unduly inconvenient or burdensome.

Respectfully submitted,



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